



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

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Person

April 28, 1981

B-202563

The Honorable Austin J. Murphy
Chairman, Subcommittee on Select Education
Committee on Education and Labor
House of Representatives

Dear Mr. Chairman:

*[Transfer of National Center on Child Abuse Functions
to Consolidated Federal Discretionary Authority]*

This is in response to your request concerning whether functions of the National Center on Child Abuse (the Center) can be transferred to a consolidated "Federal discretionary authority" without repeal or enactment of superseding legislation. Clarence Norman of your staff has also requested that we discuss the status of the Center if the program legislation is not reauthorized before the end of September and whether the Center's grant authority to the States is severable from the national activities of the Center.

Unfortunately, our discussion and comments must be more tentative than we would like because we are not able to place a specific legislative proposal against the existing Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5101 et seq. (the Act). As we understand it, at present the administration is planning to propose that the grant program contained in 42 U.S.C. § 5103(b) be eliminated in favor of a block grant program that would permit States to use the block grant funds for the program purposes of that section, among other purposes. The Administration may further propose either that the national activities of the Center, including research and demonstration projects, be eliminated entirely or that they be carried out under more general authority that would not make use of a statutorily mandated Center.

Specifically, concerning the need for legislation to transfer the Center's functions, the Assistant General Counsel for Legislation, Department of Health and Human Services, in response to our request for comments, said:

"The Child Abuse Prevention and Treatment Act requires that the functions set forth at 42 U.S.C. § 5101(b) (1)(6) be carried out through the Center. Therefore, references to the Center in the Act would have to be amended in order to effect a transfer of functions. Depending upon the activities that a Federal Discretionary Authority might undertake apart from those listed in the Child Abuse Prevention and Treatment Act, other statutes might need to be amended as well."

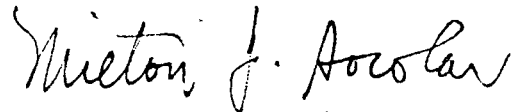
We are in agreement with the Assistant General Counsel. Although it is apparently not under consideration, we note that a transfer could take place under a Reorganization Plan. See 5 U.S.C. § 903 (1976).

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If legislation is not enacted extending the authorization contained in 42 U.S.C. § 5104, which otherwise will expire as of September 30, 1981, there will be no authority for the Secretary to carry out the Center's functions. Further ramifications of this action would be left to HHS to interpret, at least in the first instance. For example, depending on the legislative history leading up to the failure to reauthorize the Center's programs, HHS might conclude that Congress has rejected the program to the extent that HHS would feel compelled to avoid programs in this programmatic area even if other more general authority could be found. Also, there would be some question as to how HHS should administer any outstanding grants that have not themselves terminated when the authorization ceases. Normally, we would expect that HHS could administer the phase-out of such grants, but the language of the Act limiting program action to the Center raises some questions in this regard. Accordingly, if the Center is not reauthorized, transition legislation would greatly clarify such issues.

As to the severability of the national aspects of the Center from the grant program to the States, this would require some clear legislative action. First, there would have to be some form of program reauthorization that would specify what portions of the program would receive funds. A more complete legislative package that would amend the entire program and authorize the revised program for future years would be clearest.

Sincerely yours,



Acting Comptroller General
of the United States